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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/023,184      | 12/18/2001  | Ralph F. Altman      | 21398-PA-DIV        | 4813             |

7590

08/04/2003

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Towson, MD 21204

EXAMINER

MAYEKAR, KISHOR

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1753

DATE MAILED: 08/04/2003

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/023,184

Applicant(s)

ALTMAN, RALPH F.

Examiner

Kishor Mayekar

Art Unit

1753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 6-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 18 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2, the phrase "receiving" needs to be amended as -for receiving—or adapted to receive—to eliminate reference to method of operating the device.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 6 and 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over IKEDA et al. (5,445,798). IKEDA's invention is directed to a microbe propagation preventing apparatus by using ions. IKEDA discloses that the apparatus comprises an air duct 22 and an ionization chamber 23 disposed in the air duct, wherein the air duct 22 is made of an insulating material and the ionization chamber 23 includes a plurality of metallic needle electrodes 2 (col. 10, line 32-67). The differences between IKEDA and the instant claims are the detailing of mounting the needle electrode on a metal surface and intended use of the apparatus.

As to the former, IKEDA's Figs. 1 or 28 shows that the needle electrodes are disposed on a flat surface which in turn is disposed on the air duct, and are directly connected to a high voltage generator 4 via a lead or the metallic fine wires 101 are interconnected. As such, IKEDA contemplates the disposing of the

plurality of needle electrodes on a metal surface for connecting to the high voltage generator.

As to the latter, the subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified IKEDA's teachings because it has been held that on the intended use of apparatus that "apparatus claims cover what a device is, not what a device does", *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ 2d 1525 (Fed. Cir. 1990).

5. Claims 6-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over IKEDA et al. (5,445,798) in view of BECKMANN et al. (4,559,467). IKEDA's invention is directed to a microbe propagation preventing apparatus by using ions. IKEDA discloses that the apparatus comprises an air duct 22 and an ionization chamber 23 disposed in the air duct, wherein the air duct 22 is made of an insulating material and the ionization chamber 23 includes a plurality of metallic needle electrodes 2 (col. 10, line 32-67). The differences between IKEDA and the instant claims are the detailing of mounting the needle electrode on a metal surface and intended use of the apparatus.

As to the former, IKEDA's Figs. 1 or 28 shows that the needle electrodes are disposed on a flat surface which in turn is disposed on the air duct, and are directly connected to a high voltage generator 4 via a lead wire or the metallic fine wires 101 are interconnected. BECKMANN shows in a an ion generator the use of a plurality of needle electrodes 2 arranged on a support 8. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified IKEDA's teachings as shown by BECKMANN because this would result in connecting the plurality of needle electrode to a high voltage source via a lead wire and a metal surface.

As to the latter, the subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified IKEDA's teachings because it has been held that on the intended use of apparatus that "apparatus claims cover what a device is, not what a device does", *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 15 USPQ 2d 1525 (Fed. Cir. 1990).

As to the subject matter of claim 7, BECKMAN further shows that the support 8 has the cylindrical shape. The subject matter as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified IKEDA's teachings as shown by BECKMANN because the

selection of any of known equivalent support shape would be within the level of ordinary skill in the art.

*Conclusion*

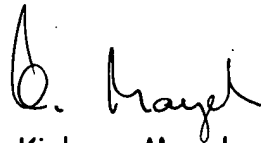
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. PROYNOFF (4,227,894) shows in an ion generator the provision of a plurality of needle electrodes on a support (see Figs. 1-10).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kishor Mayekar whose telephone number is (703) 308-0477. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (703) 308-3322. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'K. Mayekar'.

Kishor Mayekar  
Primary Examiner  
Art Unit 1753

KM

July 31, 2003